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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,318	02/13/2001	Erning Xia	P01849	9816

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Robert B. Furr, Jr.
Law Department
Bausch & Lomb Incorporated
One Bausch & Lomb Place
Rochester, NY 14604

EXAMINER
ELHILO, EISA B

ART UNIT	PAPER NUMBER
1751	13

DATE MAILED: 02/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/782,318	SOLTYS-ROBITALLE ET AL.	
	Examiner	Art Unit	
	Eisa B Elhilo	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 December 2002* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *10* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

1 This action is responsive to the RCE filed on 12,2/2002.

2 Claims 1-19 are pending in this application.

Claim Rejections - 35 USC § 103

3 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Riedhammer et al. (US' 4,820,352).

Riedhammer (US' 352) teaches a cleaning composition for contact lenses. The composition comprises an effective amount of antibacterial agent (see col. 4, lines 45-47), osmolyte (tonicity) agents such as sodium chloride that has a molecular weights within the claimed ranged (see col. 5, lines 10-19 and col. 6, Examples I-III), from about 0.01 to about 15 weight percent of poly (oxypropylene)-poly (oxyethylene) adduct of ethylene diamine having a molecular weight from about 7500 to about 27,000 wherein at least 40 weight percent of said adduct is poly (oxyethylene), buffering agents (see col. 2, lines 60-68 and col. 3, lines 1-7). The adduct having a molecular weight from about 10,000 to about 20,000 where at least 40 weight percent, and more particularly, from about 12,000 to about 19,000 where at least 60 weight percent and more particularly, from 60 to 80 weight percent of the adduct is poly (oxyethylene) (see col. 3, lines 40-51). Riedhammer also teaches a method for cleaning the contact lenses. The method comprises the step of soaking the lens in the cleaning solution that described above at

room temperature for a period ranging from four to twelve hours. The lenses are then removed from the solution, washed in preserved isotonic saline solution and then replaced on the eyes (see col. 5, lines 37-47 and col. 12, claim 18).

The instant claims differ from the reference by reciting a cleaning solution comprising an effective amount of an osmolyte that increase osmolaity of the total solution to a level higher than that of an eye's lacrimal fluids. Further, the reference does not teach the osmolality of the composition as claimed in claims 6-8. However, the reference teaches osmolyte (tonicity) agents such as sodium chloride that has molecular weights within the claimed ranged and in the amount of 6.75 g per one Liter of water (see col. 5, lines 10-19 and col. 6, Examples I-III)

Therefore, it would have been obvious to one having ordinary skills in the art at the time of the invention was made to make such a cleaning composition because the reference teaches an osmolyte agent of metal halides such as sodium chloride that has a molecular weight that falls within the claimed ranges (see col. Col. 6, Examples I, II and III), and, thus, a person of ordinary skills in the art would expect such composition to have similar properties to those claimed, absent unexpected results.

Response to Applicant's Arguments

Applicant's arguments filed 12/2/2002 have been fully considered but they are not persuasive.

With respect to the rejection based upon Riedhammer (US' 352), Applicant argues that the reference does not teach a cleaning composition having a relatively high osmotic value of more than 300 mOsm/kg as claimed. Further, the applicant argues that the reference does not teach a method for cleaning contact lenses without a digital rubbing step as claimed.

Furthermore, the applicant argues that claim 13 does not teach or suggest the use of an osmolyte agent as claimed.

The examiner respectfully disagrees with the above arguments because the reference teaches a cleaning and disinfecting solution comprising an osmolyte agent such as sodium chloride in the claimed amount (see col. Col. 6, Examples I, II and III). Therefore, the osmatic values of the composition should have been met. Further, the reference teaches a method of cleaning and conditioning contact lenses without digital rubbing as claimed using similar cleaning composition (see col. 12, claim 18). Furthermore, the reference teaches a cleaning composition that used to remove protein/lipid tear film deposits on both hard and soft contact lenses (see abstract) and the claimed compositions are particularly useful for removing and dispersing protein and lipid-containing film deposits to contact lens surface (see specification page 3, third paragraph). Therefore, the reference's compositions and the claimed compositions are used for the same purpose and they should have similar properties.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B Elhilo whose telephone number is (703) 305-0217. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (703) 308-4708. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7718 for regular communications and (703) 305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Elhilo
February 5, 2003

YOGENDRA N. GUPTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700